

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

813A0296

## SENATE BILL NO. 137

Introduced by: Senators Johnson (William) and Frederick and Representatives Wetz, Crisp, and  
Diedrich

1 FOR AN ACT ENTITLED, An Act to establish a sheep checkoff program.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Terms used in this Act mean:

4 (1) "Council," the South Dakota Sheep Research and Promotion Council;

5 (2) "First purchaser," any person who initially places sheep, whether as an owner or  
6 agent, into the channels of trade and commerce, or who is engaged in the production  
7 of sheep. However, a grower selling sheep, or delivering sheep from the farm on  
8 which they are produced to a storage or holding facility, packing shed, or processing  
9 plant, within the state, is not a first purchaser;

10 (3) "Grower," any person who raises sheep;

11 (4) "Participating grower," any grower who has not requested a refund from the payment  
12 of assessments on sheep production under this Act for a particular year and any  
13 person who owns or operates an agricultural producing or growing facility for sheep  
14 and shares in the profits and risks of loss from such operation, and who produces  
15 sheep in South Dakota during the current or preceding marketing year;

(5) "Secretary," the secretary of the South Dakota Department of Agriculture;

(6) "Sheep," all varieties of sheep marketed or produced within the state.

Section 2. There is hereby established a South Dakota Sheep Research and Promotion Council. The council shall be composed of at least five but no more than nine members who are participating growers. The initial members shall be appointed by the secretary of agriculture. Any additional members authorized pursuant to this section shall be appointed by the secretary of agriculture. The terms of members are three years; the initial appointments shall be for staggered terms. The secretary is an ex officio, nonvoting member of the council.

Section 3. Successors to the initial members and to any additional members appointed pursuant to section 2 of this Act shall be elected by the participating growers under rules promulgated pursuant to chapter 1-26 by the secretary of agriculture.

Section 4. If a member of the council ceases to be a participating grower, dies or resigns from office before the expiration of the member's term, the secretary of agriculture shall appoint a successor for the balance of the term of office vacated.

Section 5. The council shall annually elect a chair and vice chair. A majority of voting members constitute a quorum. All meetings of the council shall be called by the chair except that special meetings may be called by three members of the council. The council shall adopt procedures for the calling of special meetings.

Section 6. Moneys collected from checkoff fees shall be deposited in a special revolving fund created in the state treasury and are continuously appropriated to the council. Expenditures of these funds shall be made in accordance with the provisions of Title 4.

Section 7. The council may:

(1) Enter into contracts, including loans and grants, and cooperate with any person, any local, state, or national organization, whether public or private, or with any governmental department or agency for the discovery, promotion, development, and

1 expansion of domestic and export markets and industries and for research, education,  
2 and transportation;

3 (2) Expend the funds collected pursuant to this Act and appropriated for its  
4 administration;

5 (3) Appoint, employ, discharge, fix compensation for, and prescribe the duties of such  
6 personnel as it may deem necessary;

7 (4) Accept donations of funds, property, services, or other assistance from public or  
8 private sources for the purpose of furthering the objectives of the council;

9 (5) Lease, purchase, own, maintain, operate, and dispose of equipment and supplies  
10 necessary to carry out the provisions of this Act.

11 Section 8. The secretary of agriculture shall promulgate rules pursuant to chapter 1-26  
12 concerning:

13 (1) The procedures for obtaining a declaratory ruling;

14 (2) The procedures for assessments collected for sheep grown or sold to a first purchaser;

15 (3) The procedures for obtaining a refund of the assessment;

16 (4) The procedures for collecting delinquent assessments and assessing penalties;

17 (5) The record-keeping and reporting requirements of first purchasers; and

18 (6) The requirements governing grants and loans made pursuant to section 7 of this Act,  
19 including eligibility requirements and requirements for application, awards, and  
20 administration.

21 Section 9. An assessment of ten cents per head is imposed by the council upon all sheep  
22 grown in the state or sold to a first purchaser within the state.

23 Section 10. Any first purchaser of sheep shall collect the assessment imposed by this Act by  
24 deducting the assessment from the purchase price of all sheep subject to the assessment and  
25 purchased by the first purchaser.

1       Section 11. Any first purchaser of sheep shall file an application with the council on forms  
2       prescribed and furnished by the council which shall contain the name under which the first  
3       purchaser is transacting business within the state, the first purchaser's place of business and the  
4       location of loading places of the first purchaser.

5       Section 12. Any first purchaser shall keep as a permanent record of all purchases of sheep,  
6       which may be examined by the council at any reasonable time. Every first purchaser shall report  
7       to the council stating the quantity of sheep. The report and remittance of the assessment shall be  
8       made at the times and in the manner prescribed by the council pursuant to rules promulgated by  
9       the secretary of agriculture pursuant to chapter 1-26.

10      Section 13. If a first purchaser fails to remit the assessment provided in this Act, the council  
11      may enforce collection in any appropriate court within this state.

12      Section 14. Any grower subject to the assessment provided in this Act, within sixty days  
13      following the assessment, may apply to the council for a refund of the assessment. Upon the  
14      return of the refund application, accompanied by a record of the assessment by the first  
15      purchaser, the grower, within sixty days, shall be refunded the amount of the assessment  
16      collected. However, a grower who has paid the assessment more than once on the same sheep  
17      is entitled to a refund of the overpayment.

18      Section 15. The council, to inform the grower, shall develop and disseminate information  
19      and instructions relating to the purpose of the sheep assessment and manner in which refunds  
20      may be claimed, and to this extent shall cooperate with governmental agencies, state and federal,  
21      and private businesses engaged in the purchase of sheep.